

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

12 IN RE WASHINGTON MUTUAL, INC.)
13 SECURITIES, DERIVATIVE & ERISA)
14 LITIGATION)
15 IN RE WASHINGTON MUTUAL, INC.) Lead Case No. C08-0387 MJP
16 SECURITIES LITIGATION)
17 This Document Relates to:)
18 Sweet v. Killinger, No. C09-1718-MJP)
19)

20 I. Introduction

21 The Court should grant Plaintiffs' Motion to Remand this shareholder direct
22 action to Lane County, Oregon Circuit Court. Equitable factors – most importantly the

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PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO REMAND - Page 1
MDL No. 2:08-md-1919 MJP
Lead Case No. C08-0387 MJP
Case No. C09-1718 MJP

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1 Oregon-centric nature of the case that distinguishes it from the other consolidated
 2 cases – weigh in favor of remand on equitable grounds.¹

3 **II. Equitable Remand is Appropriate for this Oregon-Centered Shareholder
 4 Direct Action**

5 Plaintiffs recognize that the Court found equitable remand inappropriate in the
 6 Solton and Ventura matters, but believes that Plaintiffs' factual allegations in this action
 7 are distinguishable and weigh in favor of equitable remand. The key factor, glossed
 8 over by Defendants in their opposition brief, is that this shareholder direct action is
 9 Oregon-centered. Although this case shares with the consolidated cases some
 10 common allegations of wrongdoings by Washington Mutual officers and directors in
 11 terms of publicly released information, those allegations set the table for the ultimate
 12 misrepresentations that targeted Plaintiffs on an individual and/or group basis.

14 Complaint, ¶¶ 98-99, 104-107.

15 Actions that ultimately convinced Plaintiffs to hold what would soon become
 16 worthless shares of that same stock occurred in Oregon. Discovery in this case will
 17 necessarily focus on communications between: (1) Defendants and the local Oregon
 18 Washington Mutual branch employees and offices ; and (2) communications between
 19 the local Oregon Washington Mutual branch employees and offices and Plaintiffs.
 20 Oregon law, moreover, and not the federal securities laws that are the focus of the
 21 consolidated actions, will govern this case.

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25 ¹ The Court previously ruled on the "related to" jurisdiction issue, so Plaintiffs do
 26 not address that issue in this Reply.

¹ This factor, combined with the other factors weighing in favor of remand as set
² forth in Plaintiff's motion, weigh in favor of remand on equitable grounds.

³ III. Conclusion

4 For the reasons set forth in Plaintiff's motion to remand and the reasons set forth
5 above, the Court should remand this action to Lane County, Oregon Circuit Court.

DATED this 13th day of January, 2010.

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Of Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 13, 2010, the foregoing was electronically filed
3 with the Clerk of the Court using the CM/ECF system which will send notification of
4 such filing to all counsel of record who receive CM/ECF notification, and that the
5 remaining parties shall be served in accordance with the Federal Rules of Civil
6 Procedure.

7 DATED this 13th day of January, 2010.

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